

REMARKS

By this amendment, Claims 1, 3-6, 8, 10-13, 15, and 17-21 are amended. Claims 2, 7, 9, 14, 16, and 22 are or remain canceled. No claims are added or withdrawn. No new matter has been added. Therefore, Claims 1, 3-6, 8, 10-13, 15, and 17-21 are pending in the application.

Each issued raised in the Office Action mailed September 4, 2008 ("Office Action") is addressed hereinafter.

EXAMINER INTERVIEW

Applicants thank the Examiner for the telephonic interview conducted on December 2, 2008. The interview was between Examiner Marcus R. Smith, the Examiner's Supervisor Wing Chan, and the Applicants' attorney, Adam C. Stone. Pending Claims 1, 8, and 15 that were rejected in the Office Action were discussed along with U.S. Patent No. 7,072,961 issued to *Maclean et al.*, U.S. Patent No. 7,209,458 issued to *Ahvonon et al.*, and U.S. Patent No. 6,854,014 issued to *Amin et al.* In particular, the discussion focused on the following: the 103 rejections of Claim 1, 8, and 15 and the Applicants' proposed amendment to Claims 1, 8, and 15. Agreement was reached on an amendment to Claims 1, 8, and 15 that overcome the 103 rejections of Claims 1, 8, and 15. Applicants are providing herein the amendment that was proposed during the interview.

CLAIM REJECTIONS – 35 U.S.C. § 112, FIRST PARAGRAPH

Claims 7, 14, and 22 were rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was allegedly not described in the specification in such a way as to enable one of ordinary skill in the art to practice the invention. Claims 7, 14, and 22 are canceled by this amendment. Removal of the rejections under 35 U.S.C. § 112 is respectfully requested.

CLAIM REJECTIONS – 35 U.S.C. § 103

Claims 1-6, 8-13, 15-20, and 21 stand rejected as allegedly unpatentable over U.S. Patent No. 7,072,961 (“*Maclean*”) in view of U.S. Patent No. 7,209,458 (“*Ahvonen*”) and US 6,854,014 (“*Amin*”). These rejections are respectfully traversed.

Present independent Claim 1, as amended herein, now recites:

In an application server communicatively coupled to a layer-2 gateway device, the layer-2 gateway device and a user device having established therebetween a communications session that supports a first quality of service level, a method for managing the communications session established between the layer-2 gateway device and the user device, the method comprising the computer-implemented steps of:
receiving a request forwarded by the layer-2 gateway device that originated from the user device;
wherein the request is a request for a particular application service provided by the application server;
determining based upon the request for the particular application service and policy criteria, a second quality of service level to be supported by the communications session;
sending a message to the layer-2 gateway device that specifies a quality of service profile for the second quality of service level to be supported by the communications session;
wherein the step of sending a message causes the layer-2 gateway device to make a layer-2 change in a communications link used for the communications session so that the communications session supports the second quality of service level instead of the first quality of service level; and
receiving an acknowledgement from the layer-2 gateway device that indicates that a layer-2 change was made in a communications link used for the communications session.

In rejecting Claim 1, the Office Action agrees that *Maclean* does not disclose modifying a communications session like the claimed "communications session established between [a] layer-2 gateway device and [a] user device " by causing a layer-2 change in communications link used for the communications session. (*See Office Action*, page 4-5). Instead, the Office Action views *Maclean's* application server transmitting a response to the QoS request message as described in col.6, lines 38-44 of *Maclean* as "the method for signaling by the application server

to change the communications session with the device to support the second quality of service level." (*Office Action*, page 5). This is incorrect.

Maclean, col. 6, lines 38-44 states, in its entirety:

If network conditions can support the change in the QoS, the gateway device sends a request to the application server that is external to the high speed wireless data packet network asking for the QoS to be increased (step 312). In the described embodiment, the application server examines the request in comparison to a service level agreement defined QoS value for the wireless terminal user. If the QoS can be increased without violating the service level agreement, then it is improved in response to the request.

Thus, the gateway device in *Maclean* sends the QoS change request to the application server, if, and only if, network conditions can support the requested change. Upon receiving the change request, the application server determines whether the quality of service that it provides can be increased without violating a service level agreement. However, nothing in this cited portion of *Maclean* describes an application server transmitting a response to the QoS request message. Therefore, contrary to the Office Action's assertion, *Maclean* does not disclose a "method for signaling by the application server to change the communications session with the device to support the second quality of service level".

Furthermore, since *Maclean* does not disclose a method for signaling by the application server to change the communications session with the device to support the second quality of service level *Maclean* cannot teach the application server "receiving an acknowledgement from the layer-2 gateway device that indicates that a layer-2 change was made in a communications link used for the communications session" as featured in Claim 1.

Additionally, as described in *Maclean*, the QoS change request is sent from the gateway device to the application server only if the network conditions can support the change requested. Thus, it does not make sense to modify the application server of *Maclean* as suggested in the Office Action to send, as recited in Claim 1, "a message to the layer-2 gateway device that specifies a quality of service profile for the second quality of service level to be supported by the

communications session" because the gateway device has already determined that the requested (second) quality of service level can be supported in the network by the time the application server in *Maclean* receives the QoS change request.

Neither *Amin* nor *Ahvonon* overcome the deficiencies of *Maclean*. In particular, neither *Amin* nor *Ahvonon* teach or suggest **an application server** "sending a message to the layer-2 gateway device that specifies a quality of service profile for the second quality of service level to be supported by the communications session" as featured in Claim 1. Nor do either of *Amin* or *Ahvonon* teach or suggest **an application server** "receiving an acknowledgement from the layer-2 gateway device that indicates that a layer-2 change was made in a communications link used for the communications session." Consequently, Applicants respectfully submit that no combination of *Maclean*, *Amin*, and *Ahvonon* satisfies each and every feature of Claim 1. Removal of the rejection of Claim 1 under 35 U.S.C. § 103 is respectfully requested.

Independent Claims 8 and 15 recite features similar to those of Claim 1 and are allowable over *Maclean*, *Amin*, and *Ahvonon* for the same reasons. Consequently, removal of the rejection of Claims 8 and 15 under 35 U.S.C. § 103 is respectfully requested.

Claims 2, 8, and 16 have been canceled. Therefore, removal of the rejection of Claims 2, 8, and 16 under 35 U.S.C. § 103 is respectfully requested.

REMAINING CLAIMS

The pending claims not discussed so far are dependant claims that depend on an independent claim that is discussed above. Because each dependant claim includes the features of claims upon which they depend, the dependant claims are patentable for at least those reasons the claims upon which the dependant claims depend are patentable. Removal of the rejections with respect to the dependant claims and allowance of the dependant claims is respectfully

requested. In addition, the dependent claims introduce additional features that independently render them patentable. Due to the fundamental differences already identified, a separate discussion of those features is not included at this time.

CONCLUSIONS

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

Hickman Palermo Truong & Becker LLP

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/AdamCStone#60531/

Adam Christopher Stone
Reg. No. 60,531

2055 Gateway Place, Suite 550
San Jose, California 95110-1083
Telephone No.: (408) 414-1231
Facsimile No.: (408) 414-1076